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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

PETITION TO AMEND
RULE 123 OF THE RULES OF THE
SUPREME COURT

Supreme Court No. R-13-_____

Pursuant to Rule 28, Rules of the Supreme Court, Mike Palmer, a member of the public deeply concerned about justice,¹ petitions this Court to amend Rule 123 which governs access to the judicial records of the State of Arizona. The purpose of this petition is 1) to encourage the Court's various committees to post meeting minutes on their Internet pages within five working days after a public meeting, 2) to encourage judicial officers not to micro-manage record request and, 3) to encourage judicial offices not to gouge the public with usurious interpretations of statutory public record request fee schedules.

I leave it to the Court how best to communicate these goals to its officers/employees via Rule 123.

¹ Per Amos 5:15 in the Bible: "Hate evil, love good. Maintain justice in the courts."

I. Background and Purpose of the Proposed Rule Amendments

Rule 123(c)(1), titled *Open Records Policy* starts off on the right foot saying, “Historically, this state has always favored open government and an informed citizenry. [Amen!] In that tradition, the records in all courts and administrative offices of the Judicial Department of the State of Arizona are presumed to be open to any member of the public for inspection or to obtain copies at all times during regular office hours at the office having custody of the records.”

It's a good policy, although, for the Court's information, I've had to “educate” Court staff a few times about Rule 123 when trying to inspect records in a timely fashion.

I have three suggestions to make Rule 123 even better.

First, last year, while I was commenting in this forum about Rule 6(E)(4)(e)(2) of the Arizona Rules of Protective Order Procedure, I frequented the CIDVC website trying to be an “informed citizen,” looking to read its latest meeting minutes. For some reason, the CIDVC went “dark” while I was commenting in the forum, in the sense that the current meeting minutes were not posted for quite some time. (About six months, if I recall correctly.) While, since that time, the minutes are back up, I suggest the following:

State agencies are governed by A.R.S. 38-431.01(D), which says, “The minutes or a recording of a meeting shall be available for public inspection three working days after the meeting except as otherwise specifically provided by this article.” My experience is that many state agencies do this one better, posting their meeting minutes on the web in very short order.

In this day and age of the Internet, it would be helpful if the Court would encourage its committees to follow the example set by our state agencies and post their meeting minutes on the Internet also, say, within five working days of a meeting.

Second, it's been my experience that some small town judges insist on micro-managing record requests. That is, they insist on approving every record request made, even for simple visual inspection of the record. Would the Court please put a “Thou shall not micro-manage record requests or do anything that would impede the public's Rule 123 record requests” in Rule 123?

Last, the fees for records for some types of court are set by statute. For example, A.R.S. § 22-404 is a fee schedule showing the fees for a Municipal Court.

The “minimum clerk fee” is \$17 and it costs \$17 for “research in locating a record.” The fee for a paper copy of a record is \$0.50, which is the same in a Justice Court.

Now, it's been my experience that a person can walk into a clerk's office at most courts, inspect a record and get a copy of papers for 50 cents a page.

But in the Quartzsite Municipal Court, Judge Larry King insists the minimum fee for doing same is \$34. That's \$17 for "research" (even if you know the case you want to inspect) and \$17 for a minimum fee, which apparently, he views as a cover charge.

This should not be. (Especially in Quartzsite, where the locals can't afford it.)

I've asked around and found this is within the "discretion" of the judge.

Can the Court please put some language into Rule 123 that, in the spirit of open records and an informed citizenry, judges shall not require a cover charge to inspect a record? Perhaps also some type of court ombudsman is needed to oversee these aberrations?

SUBMITTED this 10th day of January, 2013

By /s/ Mike Palmer
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